

April 27 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 10-0179

STATE OF MONTANA,

Plaintiff and Appellee,

v.

STANLEY D. DETHMAN,

Defendant and Appellant.

ORDER **FILED**

APR 27 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Stanley Dean Dethman has petitioned the Court, through his counsel, Kevin E. Vainio, to allow him to file an out-of-time appeal under M. R. App. P. 4(6). Counsel claims Dethman did not have effective assistance of counsel in filing a timely appeal and that, in light of Dethman's schizophrenia, his ability to engage in a reasonable and lucid dialog concerning the decision to represent himself at trial was impaired. Attached to the petition is documentation of Dethman's multiple attempts to obtain appointed counsel for purposes of appeal, and his repeated efforts to file a notice of appeal on his own behalf, together with a supporting affidavit by Dethman. According to Vainio, the Powell County Attorney opposes the petition for an out-of-time appeal.

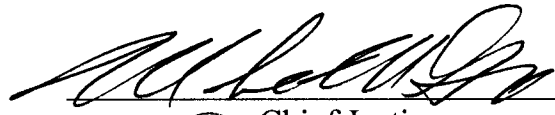
M. R. App. P. 4(6) provides that an out-of-time appeal will be allowed only in the infrequent harsh case under extraordinary circumstances amounting to a gross miscarriage of justice. Under the circumstances here presented, we deem it appropriate to grant the petition for leave to file an out-of-time appeal. Accordingly,

IT IS ORDERED that Dethman's petition for leave to file an out-of-time appeal is GRANTED.

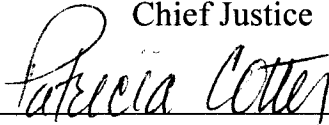
IT IS FURTHER ORDERED that Dethman shall file his notice of appeal within ten days of the date of this Order. Thereafter, the Montana Rules of Appellate Procedure shall govern with respect to the filing of the record and briefs on appeal.

The Clerk is directed to provide copies of this Order to all counsel of record.

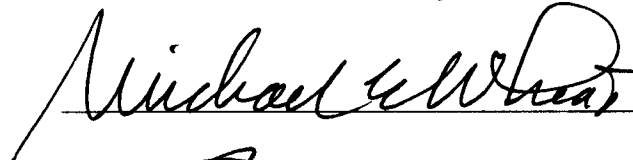
DATED this 27th day of April, 2010.




Chief Justice

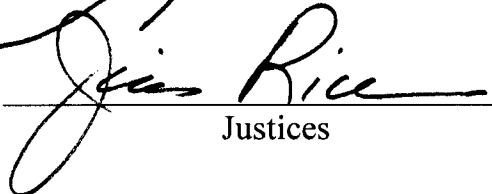


Patricia Cotter



Michael J. Wheat





Justices